

Surface Transportation Board, DOT

§ 1150.34

Board, through the Director of the Office of Proceedings, will publish a notice in the FEDERAL REGISTER within 16 days of the filing. A change in operators would follow the provisions at § 1150.34, and notice must be given to shippers.

(c) If the notice contains false or misleading information, the exemption is void *ab initio*. A petition to revoke under 49 U.S.C. 10502(d) does not automatically stay the exemption. Stay petitions must be filed at least 7 days before the exemption becomes effective.

(d) Applicant must preserve intact all sites and structures more than 50 years old until compliance with the requirements of Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 is achieved.

(e) If the projected annual revenue of the carrier to be created by a transaction under this exemption exceeds \$5 million, applicant must, at least 60 days before the exemption becomes effective, post a notice of intent to undertake the proposed transaction at the workplace of the employees on the affected line(s) and serve a copy of the notice on the national offices of the labor unions with employees on the affected line(s), setting forth the types and numbers of jobs expected to be available, the terms of employment and principles of employee selection, and the lines that are to be transferred, and certify to the Board that it has done so.

[51 FR 2504, Jan. 17, 1986, as amended at 53 FR 4626, Feb. 17, 1988; 53 FR 5982, Feb. 29, 1988; 62 FR 47584, Sept. 10, 1997; 69 FR 58366, Sept. 30, 2004; 71 FR 62212, Oct. 24, 2006]

§ 1150.33 Information to be contained in notice—transactions that involve creation of Class III carriers.

(a) The full name and address of the applicant;

(b) The name, address, and telephone number of the representative of the applicant who should receive correspondence;

(c) A statement that an agreement has been reached or details about when an agreement will be reached;

(d) The operator of the property;

(e) A brief summary of the proposed transaction, including:

(1) The name and address of the railroad transferring the subject property,

(2) The proposed time schedule for consummation of the transaction,

(3) The mile-posts of the subject property, including any branch lines, and

(4) The total route miles being acquired;

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States; and

(g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

[51 FR 2504, Jan. 17, 1986, as amended at 51 FR 25207, July 11, 1986; 53 FR 4626, Feb. 17, 1988; 53 FR 5982, Feb. 29, 1988; 56 FR 36111, July 31, 1991]

§ 1150.34 Caption summary—transactions that involve creation of Class III carriers.

The caption summary must be in the following form. The information symbolized by numbers is identified in the key below:

SURFACE TRANSPORTATION BOARD

Notice of Exemption

FINANCE DOCKET NO.

(1)—EXEMPTION (2)–(3)

(1) Has filed a notice of exemption to (2) (3)'s line between (4). Comments must be filed with the Board and served on (5). (6).

Key to symbols:

(1) Name of entity acquiring or operating the line, or both.

(2) The type of transaction, *e.g.*, to acquire, operate, or both.

(3) The transferor.

(4) Describe the line.

(5) Petitioners representative, address, and telephone number.

(6) Cross reference to other class exemptions being used.

The notice is filed under § 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be

§ 1150.35

filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

[47 FR 8199, Feb. 25, 1982. Redesignated at 47 FR 49581, Nov. 1, 1982, as amended at 53 FR 5982, Feb. 29, 1988; 69 FR 58366, Sept. 30, 2004]

§ 1150.35 Procedures and relevant dates—transactions that involve creation of Class I or Class II carriers.

(a) To qualify for this exemption, applicant must serve a notice of intent to file a notice of exemption no later than 14 days before the notice of exemption is filed with the Board, and applicant must comply with the notice requirement of § 1150.32(e).

(b) The notice of intent must contain all the information required in § 1150.33 plus:

(1) A general statement of service intentions; and

(2) A general statement of labor impacts.

(c) The notice of intent must be served on:

(1) The Governor of each State in which track is to be sold;

(2) The State(s) Department of Transportation or equivalent agency;

(3) The national offices of the labor unions with employees on the affected line(s); and

(4) Shippers representing at least 50 percent of the volume of local traffic and traffic originating or terminating on the line(s) in the most recent 12 months for which data is available (beginning with the largest shipper and working down).

(d) Applicant must also file a verified notice of exemption conforming to the requirements of (b) above and of § 1150.34, and certify compliance with § 1150.35 (a), (b), and (c), attaching a copy of the notice of intent.

(e) The exemption will be effective 45 days after the notice is filed. The Board, through the Director of the Office of Proceedings, will publish a notice in the FEDERAL REGISTER within 16 days of the filing.

(f) If the notice contains false or misleading information, the exemption is void *ab initio*. A petition to revoke under 49 U.S.C. 10502(d) does not automatically stay the transaction. Stay petitions must be filed within 7 days of

49 CFR Ch. X (10–1–07 Edition)

the filing of the notice of exemption. Stay petitions must be filed at least 14 days before the exemption becomes effective. To be considered, stay petitions must be timely served on the applicant.

(g) Applicant must comply with § 1150.33(g) regarding section 106 of the National Historic Preservation Act, 16 U.S.C. 470.

[53 FR 5982, Feb. 29, 1988, as amended at 53 FR 31341, Aug. 18, 1988; 62 FR 47584, Sept. 10, 1997; 69 FR 58366, Sept. 30, 2004; 71 FR 62213, Oct. 24, 2006]

§ 1150.36 Exempt construction of connecting track.

(a) *Scope.* This class exemption applies to proceedings involving the construction and operation of connecting lines of railroad within existing rail rights-of-way, or on land owned by connecting railroads, under 49 U.S.C. 10901 (a), (b), and (c). (See the reference to connecting track in 49 CFR 1105.6(b)(1).) This class exemption is designed to expedite and facilitate connecting track construction while ensuring full and timely environmental review. The Surface Transportation Board (Board) has found that its prior review of connecting track construction and operation is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; that continued regulation is not necessary to protect shippers from abuse of market power; and that the construction of connecting track would be of limited scope. *See* 49 U.S.C. 10502. To use this class exemption, a pre-filing notice, environmental report, historic report, and notice of exemption must be filed that complies with the procedures in § 1150.36 (b) and (c), and the Board's environmental rules, codified at 49 CFR part 1105.

(b) *Environmental requirements.* The environmental regulations at 49 CFR part 1105 must be complied with fully. An environmental report containing the information specified at 49 CFR 1105.7(e), as well as an historic report containing the information specified at 49 CFR 1105.8(d), must be filed either before or at the same time as the notice of exemption is filed. *See* 49 CFR 1105.7(a). The entity seeking the exemption authority must also serve copies of the environmental report on the